

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 207 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

BHARAT VIJAY MILLS LTD

Appearance:

MR MANISH R BHATT for Petitioner
SERVED BY RPAD for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

Date of decision: 01/08/96

ORAL JUDGEMENT

The Income Tax Appellate Tribunal has referred the following two questions for the opinion of this Court:-

- "1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal

has been right in law in confirming the view taken by the C.I.T. (Appeals) in holding that Rs. 24,000/- each paid to two Managing Directors as deferred annuity premium and Rs. 926/- each paid for personal accident insurance for them were not in the nature of perquisite and cannot be including in the limits laid down under section 40 A (2) of the Income-tax Act, 1961 ?

2. Whether, deletion of the addition made by the I.T.O. on account of guest house expenses of Rs. 11,036/- under section 37 (4) of the Income Tax Act, 1961 is justified in law on the facts and in the circumstances of the case ?"

2. So far as question No. 1 referred to above in concerned, it required no detailed discussion as in our opinion, the case is covered by the decision of this Court in the case of Gujarat Steel Tubes Ltd. vs. Commissioner of Income-tax, reported in 210 ITR 358. In that case, deduction for Rs. 90,000/- was claimed under section 37 as it paid the premium of Rs. 45,000/- on the lives of each of the two directors for purchase of deferred annuity. The Court held that the amount expended for purchase of the deferred annuity policy is revenue expenditure for which deduction can not be granted under Sec. 37 of the Income tax Act. In view of this, we answer question No. 1 in favour of the revenue and against the assessee.

3. So far as question No. 2 referred to above is concerned, the same requires no detailed discussion as the same is covered by the decision of this Court in the case of CIT vs. Ahmedabad Mfg. & Calico Printing Co. reported in 197 ITR 538 and in the case of CIT, Gujarat-I vs. Gujarat Industrial Development Corporation, Ahmedabad, ITR No. 70/83 decided by the Division Bench of this Court (Coram : Rajesh Balia & M.S.Shah, JJ.) on September 27, 1995. Hence, we answer the question No. 2 in favour of the assessee and against the revenue.

4. Answer accordingly with no order as to costs.